



Department of Justice

STATEMENT

OF

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UNITED STATES DEPARTMENT OF JUSTICE**

BEFORE THE

**SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY,
AND HUMAN RESOURCES
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES**

CONCERNING

**“THE FY 2007 DRUG CONTROL BUDGET AND THE BYRNE GRANT,
HIDTA, AND OTHER LAW ENFORCEMENT PROGRAMS: ARE WE
JEOPARDIZING FEDERAL, STATE AND LOCAL COOPERATION?”**

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Statement of Stuart G. Nash
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Office of the Deputy Attorney General
Before the
Subcommittee on Criminal Justice, Drug Policy, and Human Resources
Of the
Committee on Government Reform
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Chairman Souder, Ranking Member Cummings, and distinguished Members of Congress: I am Stuart G. Nash, Associate Deputy Attorney General in the Office of the Deputy Attorney General. I am pleased to appear before you today to discuss the President's Fiscal Year 2007 Drug Control budget, and specifically the President's proposal to transfer the High Intensity Drug Trafficking Area (HIDTA) Program to the Department of Justice (DOJ). Before I proceed, I want to thank the Subcommittee for its commitment to oversight of this nation's drug enforcement efforts.

Overview

As you know, the President's FY 2007 Budget proposes transferring the HIDTA Program from the Office of National Drug Control Policy (ONDCP) to the Department of Justice.

The Department of Justice views the President's proposal as a tremendous opportunity for DOJ and HIDTA to forge an enduring and productive partnership. In our view, HIDTA's ability to marshal the various skills, intelligence, and competencies of federal, state, and local law enforcement, and to coordinate those efforts in a manner conducive to the law enforcement landscape in particular areas of the country, has led to important successes in the drug enforcement field. Through these successes, HIDTA has demonstrated its ability to target a variety of threats impacting the local communities that the Program was designed to serve.

In the fifteen years since the HIDTA Program was established, however, we have come to recognize that the vast majority of these so-called "local" threats are actually, closely connected to the large national and international drug trafficking organizations. The illegal drug trade we see today exists without distinction between any previously perceived boundaries between "local," "national," and "international" threats. Insistence on maintaining such boundaries is unnecessarily complicating our drug enforcement efforts.

Simply put, by working together in the same Department, both HIDTA and DOJ will be more effective. The transfer of the HIDTA Program to DOJ would permit more comprehensive coordination, enhanced de-confliction, more extensive intelligence sharing, and more effective strategic planning between HIDTA initiatives and the drug enforcement efforts being pursued by DOJ.

The transfer of the HIDTA Program to DOJ would bring significant benefits, both to DOJ and to HIDTA, by allowing closer cooperation between the Programs. HIDTAs would receive the benefit of DOJ's established law enforcement resources, including ready access to the many federal agents and prosecutors who have dedicated their lives to drug enforcement efforts. Equally importantly,

HIDTAs would gain access to the extensive network of drug intelligence that is developed and maintained by the DOJ components dedicated to drug enforcement. DOJ, in turn, would receive the benefit of more extensive information-sharing and better de-confliction relative to the many jointly pursued targets. In sum, closer cooperation would create numerous opportunities for both programs to leverage their respective strengths for the benefit of communities throughout the nation.

Misconceptions

Before delving into greater detail on the benefits that we believe would accrue to drug enforcement generally from more closely aligning the efforts of HIDTA and the Department of Justice, it should be noted that several misconceptions have arisen as to what the President's proposal entails. It is worth taking a few moments to correct these misconceptions.

First, and foremost, the President's proposal is not a proposal to merge the HIDTA Program with OCDETF. OCDETF, as you know, is the Organized Crime Drug Enforcement Task Force Program, and it is currently the centerpiece of DOJ's drug enforcement strategy. OCDETF is a program that implements Administration policy by coordinating all the drug enforcement elements of the federal government – including DOJ, the Department of Treasury and the Department of Homeland Security – in concerted efforts against the largest national and international drug-trafficking and money-laundering organizations.

DOJ has no intention of merging the HIDTA Program with OCDETF. If the HIDTA Program were to be transferred to the Department of Justice, DOJ has committed to maintain HIDTA as a free-standing, independent program.

Indeed, if the HIDTA Program were to come to Justice, it would, like the OCDETF Program, be managed out of the Office of the Deputy Attorney General – the number two ranking official in the Department of Justice. The benefits of this arrangement for the HIDTA Program would be substantial. At the beginning of this Administration, the OCDETF Program was elevated out of the Criminal Division, to the Office of the Deputy Attorney General, to raise the profile of the Program, and to ensure the Program's visibility, and access to, the senior leadership of the Department. The placement of OCDETF in the Deputy Attorney General's Office has had its intended effect – ensuring that OCDETF, and drug enforcement generally, remains front and center as a top priority of the Departmental leadership. The HIDTA Program would similarly be accorded a place in the Deputy Attorney General's Office – with all that benefits that accrue from such a placement -- and thus would exist at DOJ on par with, but independent from, the OCDETF Program.

In this connection, I think it is necessary to explain my own status as a witness here today. I wear two hats at the Department of Justice. I am Director of the OCDETF Program. However, I am also an Associate Deputy Attorney General, serving on the Deputy Attorney General's staff, and advising him on matters related to counter-narcotics and asset forfeiture policy. It is this second role that makes me the appropriate individual to come before you and to testify, on behalf of the Deputy Attorney General, as to what DOJ's plan would be for operation of the HIDTA Program. The fact that I also happen to be the Director of OCDETF should, in no way, suggest that, contrary to our specific representations, OCDETF would somehow be involved in supervising the management of the HIDTA Program. I am simply here, testifying before you, in my capacity as the Deputy Attorney General's advisor on all drug-related issues.

Another misconception is that, if granted management of the HIDTA Program, the Department of Justice would impose rigid, centralized controls over the program, depriving the individual HDTAs of their ability to tailor their operations to the needs of their specific geographic areas. Critics of this transfer have suggested that the Department of Justice would administer the HIDTA program using OCDEF as a model. This assumption is misguided. The comparison between the way that the Department of Justice administers the OCDEF program and the way that the Department would administer the HIDTA program is inapt. OCDEF is the program through which the federal government pursues an important, but narrow aspect of the overall drug enforcement effort – an attack on the largest national and international drug-trafficking and money-laundering organizations. While state and local law enforcement are important participants in the vast majority of OCDEF cases, OCDEF exists principally for the purpose of coordinating efforts among the federal agencies.

The mission of HIDTA is not only broader – “to combat drug trafficking and its harmful consequences in critical regions of the United States” – but the program is specifically designed to allow the state and local law enforcement participants to define, on an equal footing with their federal counterparts, the local drug threats, and to craft localized solutions to combat those threats. Decentralized decision-making is an integral part of that system and, indeed, is woven into the very make-up of the Program. Even if the Department were so inclined, the structure of HIDTA would not permit us to rigidly centralize decision-making over the HIDTA Program. The Department of Justice recognizes that the key to the strength of the HIDTA program is de-centralized decision-making. For example, the Appalachia HIDTA focuses on eliminating the growth of marijuana on public lands, while the Central Valley California HIDTA concentrates eliminating the production and distribution of methamphetamine. Likewise, the Southwest Border HIDTA focuses on the cross-border importation of all drugs. Obviously, it would be nonsensical for anyone, including DOJ, to attempt to standardize the efforts of the HDTAs, each of which faces a unique combination of threats.

Finally, there is a misconception that DOJ would use its stewardship of the HIDTA program to unfairly direct HIDTA assets to benefit drug enforcement activities pursued by the DOJ components (to the exclusion of the state and locals and/or other federal agencies). Again, it is difficult to see how this could realistically be accomplished. The HIDTA Program is built on the premise that federal agencies (on the one hand) and state and local agencies (on the other) should have an equal voice in managing their individual HDTAs. Each HIDTA has an Executive Board, composed equally of federal and state and local representatives, which makes decisions regarding the expenditures of funds by that HIDTA. DOJ has guaranteed that this bedrock principle of the HIDTA Program – the equal representation of federal agencies and state and locals – will be preserved.

More importantly, the involvement of state and local agencies is essential to the successful pursuit of federal drug enforcement efforts. The very purpose of the HIDTA Program is to foster coordinated efforts between the levels of government. DOJ recognizes, as clearly as anyone, how counterproductive it would be to alienate our state and local partners (or, for that matter, our non-Justice federal partners) thereby losing their invaluable contribution to this shared enterprise.

The DOJ Plan

The Department of Justice has, since the President's Budget was announced in February, engaged in an active effort to solicit input from all affected parties as to how the HIDTA Program could best be administered by DOJ.

Mr. Chairman, as you are aware, within days of the budget announcement, members of the Deputy Attorney General's staff, including myself, reached out to members of your staff, and the staffs of other Members who had expressed concern with this proposal, to get input as to how the HIDTA Program could best be administered by DOJ. Within two weeks of the budget announcement, the Deputy Attorney General himself came to Capitol Hill to meet with you, Mr. Chairman, to get your thoughts about the transfer of the HIDTA program. Later in February, the Deputy Attorney General met and spoke with the HIDTA Directors at their annual conference in Washington, D.C., outlining his commitment to the Program, and fielding questions from them about what DOJ would do with the Program if it were, in fact, transferred. The Deputy Attorney General followed this meeting with an individual letter to each of the HIDTA Directors, requesting any thoughts they might have about the most effective way the HIDTA Program could function within the Department of Justice. The Deputy Attorney General and members of his staff, including me, have continued meeting with various HIDTA leadership, state and local law enforcement, and Congressional staff to get their views on this issue.

Based on our initial meetings, the Department has developed certain fundamental principles that will guide DOJ's administration of the HIDTA Program – if the President's proposal is adopted. Certainly, the Department has not yet developed a detailed operational plan for the HIDTA Program nor would it have been appropriate to do so at this point. It is important that, before such a plan is finalized, we have a full and candid discussion with all the affected parties concerning how the Program can best be administered. DOJ looks forward to a continuing dialogue on this issue. In the meantime, the following fundamental principles provide a clear picture of what the HIDTA Program would look like under the administration of the Department of Justice:

Principles

- As stated earlier, the Department intends to maintain HIDTA as a separate program within the Department with its own budget and an independent management structure, residing within the Office of the Deputy Attorney General.
- HIDTA will continue to operate as a grant program, with resources flowing from the Department to independent grant fiduciaries.
- The Department intends that HIDTA Executive Boards will retain equal federal and state/local representation, to preserve equitable allocation of HIDTA resources.
- The Department will explore ways to enhance coordination and strategic planning between HIDTA sites, such as creating geographic zones to coordinate initiatives among and between HIDTAs within each zone.

- Assuming passage of the President's FY 2007 budget request, DOJ will retain all of the existing 28 HIDTAs.
- Each HIDTA will be funded at a significant percentage of their Fiscal Year 2006 level (dependent on the enacted appropriation), with additional discretionary funding available on a competitive basis.
- Each HIDTA Executive Board will retain discretion to make its own funding decisions regarding the resources allocated to it. However, performance measures will be rigorously applied to ensure accountability for the use of all resources. Grants that, over a reasonable time period, fail to show demonstrable results would be redirected to more productive uses.
- In order to achieve maximum impact, HIDTAs will be encouraged to coordinate enforcement initiatives more closely with other Department crime fighting initiatives, including Project Safe Neighborhoods, the Safe Streets Violent Gang Task Forces, and the Organized Crime Drug Enforcement Task Forces.

DOJ and HIDTA

On February 15, 2006, the Attorney General reiterated that targeting and reducing the drug supply is one of the Department of Justice's top priorities. The Department is determined to reduce the threat, trafficking and violence caused by illegal drugs and to break the cycle of drugs and violence by reducing both the demand for and availability of illegal drugs. To this end, the Department is confident that HIDTA must play an integral role in achieving this goal. In particular, HIDTA's essential role in partnering the federal government with state and local law enforcement efforts and the Program's unique ability to tailor its efforts to regional threats, makes HIDTA an essential piece of the federal drug enforcement strategy.

Coordination and de-confliction of enforcement efforts against sophisticated, geographically dispersed, multi-faceted criminal organizations, such as drug conspiracies, is one of the most difficult tasks currently facing law enforcement. Even when the coordination required is between the field divisions of a single agency, such coordination is extremely difficult to accomplish effectively. When coordination is attempted between agencies, the difficulties increase exponentially. Coordination and de-confliction between HIDTA and investigations being pursued by DOJ components or other OCDETF agencies would improve dramatically by moving the Program to the Department of Justice.

Similarly, there would be significant gains in the intelligence capabilities of both DOJ and HIDTA if HIDTA were administered by DOJ, and barriers to sharing intelligence between the programs were thereby reduced. Linking the HIDTA Program to the Department's drug enforcement efforts would facilitate a strategic, intelligence-driven approach to eradicating local and regional drug threats, while enabling unprecedented intelligence coordination on a national level, in support of efforts to disrupt and dismantle the most significant drug trafficking organizations.

Because drug trafficking organizations are criminal organizations of opportunity, drug law enforcement often overlaps with efforts to investigate other criminality such as gang activity and violent crime. As a result, HIDTA investigations naturally produce valuable intelligence regarding crimes that will impact other Department of Justice initiatives such as OCDETF, the Safe Streets Violent Gang Task Forces (SSVGTF), and Project Safe Neighborhoods (PSN).

Likewise, Department programs will generate intelligence impacting HIDTA initiatives. Housing all of these initiatives in one Department will place the federal government in the best position to share intelligence and leverage resources across programs. For example, a HIDTA investigation targeting a local methamphetamine trafficking organization might produce intelligence identifying ties to a national gang. Rather than pursue this investigation as a localized drug conspiracy, the HIDTA could partner with the SSVGTF, making it more likely that this collaborative investigation will completely dismantle all aspects of the gang's criminal activity. In doing so, the investigation also may result in more significant charges against the organization and ultimately, longer sentences.

Finally, on the level of policy and resource allocation, HIDTA and OCDETF complement one another. Significant gains can be made by allowing a single entity, in this case the Office of the Deputy Attorney General, to array the resources of these two significant drug enforcement programs in a manner that allows them to support one another, without unnecessarily duplicating efforts. The result will be a more effective attack on the entire spectrum of drug crime.

Conclusion

In closing, I want to emphasize that the Department believes the HIDTA Program is a valuable tool in our nation's efforts to investigate and prosecute drug traffickers. Drug trafficking is a multi-dimensional problem and therefore, necessitates a multi-faceted law enforcement strategy. One aspect of this strategy is for federal agencies to work with their state and local counterparts to target local threats, and where possible, to use the intelligence gathered at the local level to expand those cases to the regional and national level. With its state and local partnerships, the HIDTA Program is uniquely positioned to promote this strategy. The President's proposal is designed to assist the HIDTA Program in fulfilling this role more efficiently and effectively.

The HIDTA Program has made numerous valuable contributions to our overall drug enforcement effort. The Department will continue to strongly support the HIDTA Program and work with its leadership to develop new initiatives for vigorous implementation of our National Drug Control Strategy.

Thank you for your attention to this important issue and the opportunity to testify here today. I will be happy to answer any questions you may have.